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Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBBIE NEARING,)	No. CIVS-04-1880 DFL GGH
)	
Plaintiff,)	
)	
v.)	STIPULATION OF SETTLEMENT;
)	WAIVER AND RELEASE; DISMISSAL;
MERIT SYSTEMS PROTECTIONS)	ORDER
BOARD, STEPHEN A. PERRY,)	
ADMINISTRATOR, UNITED STATES)	
GENERAL SERVICES)	
ADMINISTRATION,)	
)	
Defendants.)	

1. Plaintiff ROBBIE NEARING (hereinafter "plaintiff")
filed this action against the Merit Systems Protection Board and
the Administrator of the General Services Administration
(hereinafter "defendants"), pursuant to Title VII of the Civil
Rights Act of 1964, 42 U.S.C. § 2000e-16, and various other legal
provisions alleging employment discrimination, retaliation, and
unlawful agency action as more fully described in the Complaint

1 for Judicial Review of MSPB Decision and Complaint of
2 Discrimination filed on November 9, 2004.

3 2. Defendant hereby agrees to pay to plaintiff, and
4 plaintiff agrees to accept, the total sum of \$50,000.00 (Fifty
5 Thousand Dollars). This amount includes attorney's fees, expert
6 witness fees, and all other costs or expenses, which amounts will
7 be paid out of the sum stated and not in addition to it.

8 3. This Settlement Agreement shall not constitute an
9 admission of liability, fault or discrimination on the part of
10 the United States, its agencies, agents, or employees and former
11 employees, and is entered into by both parties only for the
12 purpose of compromising disputed claims and avoiding the expenses
13 and risks of continued litigation.

14 4. This settlement is in full settlement and satisfaction
15 of any and all existing and future claims of any kind whatsoever,
16 known or unknown, which plaintiff or her children, estate, heirs,
17 successors or assigns may now have or hereafter acquire against
18 the United States of America, its agencies, agents, employees and
19 former employees, individually and/or in their official
20 capacities, as a result of any matter contained within the
21 Complaint on file in this action.

22 Plaintiff and her children, estate, heirs, successors or
23 assigns further agree to reimburse, indemnify, defend and hold
24 harmless the United States, its agencies, agents, and employees
25 and former employees, individually and/or in their official
26 capacities, from any and all such claims incident to or resulting
27 from further litigation or the prosecution by plaintiff or her
28 children, estate, heirs, successors or assigns against any third

1 party, or against the United States, its agencies, agents, and
2 employees and former employees, individually and/or in their
3 official capacities.

4 5. In consideration for payment of the amount and actions
5 taken as specified in paragraph 2 above, plaintiff agrees,
6 represents and warrants that this is a full and final release
7 applying to all known, unknown and unanticipated injuries,
8 disabilities, damages or claims of any kind arising in any manner
9 out of the allegations contained in the Complaint on file in this
10 action. Plaintiff understands that she may have suffered damages
11 or have claims that are unknown to her at present. Plaintiff
12 acknowledges that the sum paid in consideration of this
13 settlement is intended to and does release and discharge any
14 claims in regard to such unknown or future damages and claims of
15 any kind arising out of the allegations contained in the
16 Complaint, and she does hereby waive to the fullest extent
17 permissible under law any and all rights under Section 1542 of
18 the California Civil Code, which reads as follows:

19 A general release does not extend to claims which the
20 creditor does not know or suspect to exist in his favor
21 at the time of executing the release, which if known by
22 him must have materially affected his settlement with
23 the debtor.

24 In connection with such waiver and relinquishment, plaintiff
25 acknowledges that she is aware that she may hereafter discover
26 claims and damages presently unknown or unsuspected, or facts in
27 addition to or different from those which she now knows or
28 believes to be true, with respect to the matters released herein.

1 Nevertheless, it is the intention of plaintiff through this
2 release, and with the advice of counsel, fully, finally and
3 forever to settle and release all such matters and claims
4 relative thereto to the extent those claims arising out of the
5 allegations contained in the Complaint on file in this action.

6 6. Plaintiff represents and warrants that, other than
7 claims and liens for attorney's fees, she is the sole and lawful
8 owner of all rights, title and interests in and to every claim
9 and other matter which she purports to release herein, and that
10 she has not heretofore assigned or transferred, or purported or
11 attempted to assign or transfer to any person or entity any
12 claims or other matters herein released. Plaintiff shall
13 indemnify the United States of America and its agencies, agents,
14 employees and former employees, named and unnamed, against, and
15 defend and hold harmless from, any claims arising out of or
16 relating to any such assignment or transfer of any claims or
17 other matters released herein.

18 7. Payment of the settlement amount will be made by an
19 electronic funds transfer to the account identified by
20 plaintiff's attorney.

21 8. This Settlement Agreement contains the entire agreement
22 between the parties hereto, and plaintiff acknowledges and agrees
23 that no promise or representation not contained in this
24 Settlement Agreement has been made to her, and she acknowledges
25 and represents that this Settlement Agreement contains the entire
26 understanding between the parties, and contains all terms and
27 conditions pertaining to the compromise and settlement of the
28 disputes referenced herein. This Settlement Agreement is

1 executed without reliance upon any representation by defendant as
2 to tax consequences, and plaintiff is responsible for the payment
3 of all taxes that may be associated with the settlement payment.

4 9. The terms of this Settlement Agreement are binding on
5 the parties, but do not give rise to any separate cause of
6 action. In the event of a dispute between the parties regarding
7 a matter that arises under this Settlement Agreement, the sole
8 remedies of the parties shall be to seek relief through an order
9 from this Court. The parties hereby stipulate that this Court
10 shall maintain jurisdiction to enforce and interpret the terms of
11 this Settlement Agreement.

12 10. This Settlement Agreement and the provisions contained
13 herein shall not be construed or interpreted for or against any
14 party hereto because that party drafted or caused that party's
15 legal representative to draft any of its provisions.

16 11. Plaintiff acknowledges that she has read this
17 Settlement Agreement, that she fully understands her rights,
18 privileges and duties hereunder, and that she enters into this
19 Settlement Agreement freely and voluntarily. Plaintiff further
20 acknowledges that she has had sufficient opportunity to consult
21 with her counsel to explain the terms of this Settlement
22 Agreement and the consequences of signing it.

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28 ///

12. Plaintiff agrees that, in consideration of defendant's agreement to take the steps set forth in paragraph 2, her action may be and hereby is dismissed with prejudice.

DATED: _____ LAW OFFICES OF LOUIS DEMAS

By: _____
LOUIS DEMAS
Attorneys for Plaintiff

DATED: _____
_____ ROBBIE NEARING
Plaintiff

Dated: _____
McGREGOR W. SCOTT
UNITED STATES ATTORNEY

JOSEPH E. MALONEY
ASSISTANT UNITED STATES ATTORNEY

ORDER

IT IS SO ORDERED.

DATED: 1/20/2006



DAVID F. LEVI
United States District Judge